

### **REMARKS**

Responsive to the Office Action mailed December 13, 2007, Applicants provide the following. The claims have been amended without adding new matter. Claims 1, 5, 8, 9, 13 and 15 have been amended. Claims 16 and 17 have been added without adding new matter. Seventeen (17) claims remain pending in the application: Claims 1-17. Reconsideration of claims 1-15 in view of the amendments above and remarks below and consideration of new claims 16 and 17 is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (805) 541-2800 so that such issues may be resolved as expeditiously as possible.

### **Information Disclosure Statement**

2. Applicants thank the Examiner for returning initialed IDS forms for the IDS filed August 12, 2004.

### **Claim Objections**

3. Claim 1 stands objected to for the following informalities: the first two lines of the claim should be amended to read: "A method in an audio/video programming guide apparatus comprising:" Applicants have amended claim 1 as proposed, therefore Applicants respectfully request the object to claim 1 be withdrawn.

### **Claim Rejections - 35 U.S.C. §101**

4. Claims 8-12 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse these rejections as at least claim 8 is directed to statutory subject matter. Applicants note, however, that claim 8 has been amended to further clarify the claim language. Applicants respectfully assert that the limitations set forth in amended claim 8 falls under one of the four statutory categories of a process, machine, article of

manufacture or composition of matter. It is clear from the Applicants specification and figures that the interactive programming guide is an apparatus or structure. Specifically, paragraph 32 of the Applicants specification clearly states “this apparatus 10 further comprises a content guide 15 such as an interactive programming guide. This content guide 15 can comprise an integral part of the data processing unit 11 (as suggested by the illustration in FIG. 1) or can comprise a physically separate platform that operably couples to the data processing unit.” Applicants respectfully submit that “control circuitry” found in the language of claim 8 is not “data” but rather a physical structure. Instead, the control circuitry is adapted to utilize the characterizing descriptors and selection criterion. Therefore, Applicants respectfully submit that claims 8-12 satisfy 35 U.S.C. § 101, and thus, respectfully request the rejection be withdrawn.

#### **Claim Rejections - 35 U.S.C. §103**

5. Claims 1-15 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2004/0078807 (Fries et al.) in view of U.S. Patent Publication No. 2003/0233656 (Sie et al.). Applicants respectfully traverse these rejections in that the combination of the Fries and Sie publications fails to teach or make obvious all the limitations set forth by the rejected claims. For example, amended claim 1 recites:

- providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content, wherein a first plurality of the discrete selectable items of audio/video content differ from a second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider;

- providing at least one selection criterion;

- applying the at least one selection criterion with respect to the characterizing descriptors of the first plurality of the discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content to provide a resultant selection of the first plurality of discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content; and

- displaying programming guide information comprising information regarding at least a portion of the resultant selection.

Specifically, the combination of Fries and Sie fails to teach or suggest at least providing access to characterizing descriptors of a first and second plurality of discrete selectable items of audio/video

content which differ with respect to a primary transmission service provider, applying the selection criterion to the characterizing descriptors of the first and second plurality of discrete selectable items to provide a resultant selection and displaying information regarding at least a portion of the resultant selection.

Claim 1 recites “providing access... a first plurality of the discrete selectable items of audio/video content differ from a second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider.” While Fries discloses an aggregate Electronic Programming Guide (EPG) User Interface (UI), Fries does not discuss a first and second plurality of discrete selectable items which differ with respect to a primary transmission service provider. Instead, Fries discusses “lists of cable TV program data 454, local TV program data 434...” etc. displayed in an aggregate EPG UI as exemplified by FIG. 4 (Fries, paragraph 107). However, as depicted in FIG. 4 of Fries, Fries’ UI merely lists a single program or channel per service broadcaster, instead of a plurality of discrete selectable items of audio/video content from multiple primary transmission service providers.

The office action admits Fries does not explicitly disclose providing at least one selection criterion, applying the selection criterion, and displaying programming guide information, however, Applicants respectfully submit that the Sie publication also does not disclose selection criterion, applying the selection criterion and displaying programming guide information. Specifically, Sie does not discuss applying the at least one selection criterion with respect to the characterizing descriptors of the first plurality of the discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content to provide a resultant selection of the first plurality of discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content. Instead, Sie discusses “the available SVOD, VOD, linear programs, and stored programs can be sorted, according to those that would likely appeal to the user” (Sie, paragraph 70). The programs which Sie sorts through are downloaded content stored locally and found at a single source, Sie does not disclose applying at least one selection criterion to the characterizing descriptors of the first and second plurality of discrete selectable items, where the first and second plurality of discrete selectable items are found at different sources since the first and second plurality of discrete selectable items differ with respect to

the primary transmission service provider. Therefore, claim 1 is not obvious over the applied combination of Fries and Sie.

Independent claims 8 and 13 have been amended to recite similar language as amended independent claim 1. Therefore claims 8 and 13 are also not obvious over Fries in view of Sie for the arguments presented above.

Claims 2-7, 9-12, 14-17 depend from either claim 1, 8, or 13. Therefore claims 2-7, 9-12, 16, and 17 are not obvious over the combination of Fries and Sie due to at least their dependency on their respective independent claims.

With regards to amended claim 5, the combination of Fries and Sie fails to teach or suggest comparing the preferences of a particular user to the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content. As mentioned above with regards to claim 1, Sie sorts through locally stored downloaded content at a single source and fails to teach or suggest comparing selection criterion to a first and second plurality of discrete selectable items which are provided from different primary transmission service provider. Therefore, claim 5 is also not obvious over the combination of Fries and Sie.

With regards to amended claim 9, the combination of Fries and Sie fails to teach or suggest filter means for comparing the at least one selection criterion with at least some of the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content. As mentioned above with regards to claims 1 and 5, Sie sorts through content downloaded to a single source and fails to teach or suggest comparing selection criterion to a first and second plurality of discrete selectable items which are provided from different primary transmission service provider. Therefore, claim 8 is also not obvious over the combination of Fries and Sie.

**New Claims**

6. Newly submitted claims 16 and 17 are believed to be allowable because they are directed to that which is not shown or suggested in the references. The office action submits that Fries does not explicitly disclose displaying programming guide information, Applicants respectfully submit that Sie also does not disclose displaying programming guide information comprising information regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable audio/visual programs and the second plurality of discrete selectable audio/visual programs. As mentioned above, Sie sorts through locally stored downloaded content at a single source, therefore Sie would be unable to provide a resultant selection which includes two or more discrete selectable items differing in at least their primary transmission service providers.

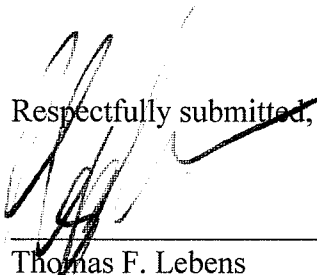
Support for new claims 16 and 17 can be found at least at paragraphs 34 and 42 of Applicants publication.

**CONCLUSION**

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

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Respectfully submitted,

  
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